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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

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13 **SECURITIES AND EXCHANGE**
COMMISSION,

14 Plaintiff,

15 vs.

16 **CHARLES SCHWAB & CO., INC.,**

17 Defendant.
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Case No. 3:18-cv-03942

CONSENT OF DEFENDANT
CHARLES SCHWAB & CO., INC.

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CHARLES SCHWAB & CO., INC.

1 1. Defendant Charles Schwab & Co., Inc. ("Defendant") waives service of
2 a summons and the complaint in this action, enters a general appearance, and admits
3 the Court's jurisdiction over Defendant and over the subject matter of this action.

4 2. Without admitting or denying the allegations of the complaint (except as
5 to personal and subject matter jurisdiction, which Defendant admits), Defendant
6 hereby consents to the entry of the Final Judgment in the form attached hereto (the
7 "Final Judgment") and incorporated by reference herein, which, among other things:

8 (a) permanently restrains and enjoins Defendant from violation of
9 Section 17(a) of the Securities Exchange Act of 1934 ("Exchange
10 Act") [15 U.S.C. § 78q(a)] and Rule 17a-8 thereunder [17 C.F.R.
11 § 240.17a-8]; and

12 (b) orders Defendant to pay a civil penalty in the amount of
13 \$2,800,000 under Section 21(d)(3) of the Exchange Act [15
14 U.S.C. § 78u(d)(3)].

15 3. Defendant agrees that it shall not seek or accept, directly or indirectly,
16 reimbursement or indemnification from any source, including but not limited to
17 payment made pursuant to any insurance policy, with regard to any civil penalty
18 amounts that Defendant pays pursuant to the Final Judgment, regardless of whether
19 such penalty amounts or any part thereof are added to a distribution fund or otherwise
20 used for the benefit of investors. Defendant further agrees that it shall not claim,
21 assert, or apply for a tax deduction or tax credit with regard to any federal, state, or
22 local tax for any penalty amounts that Defendant pays pursuant to the Final
23 Judgment, regardless of whether such penalty amounts or any part thereof are added
24 to a distribution fund or otherwise used for the benefit of investors.

25 4. Defendant waives the entry of findings of fact and conclusions of law
26 pursuant to Rule 52 of the Federal Rules of Civil Procedure.

27 5. Defendant waives the right, if any, to a jury trial and to appeal from the
28 entry of the Final Judgment.

1 6. Defendant enters into this Consent voluntarily and represents that no
2 threats, offers, promises, or inducements of any kind have been made by the
3 Commission or any member, officer, employee, agent, or representative of the
4 Commission to induce Defendant to enter into this Consent.

5 7. Defendant agrees that this Consent shall be incorporated into the Final
6 Judgment with the same force and effect as if fully set forth therein.

7 8. Defendant will not oppose the enforcement of the Final Judgment on the
8 ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of
9 Civil Procedure, and hereby waives any objection based thereon.

10 9. Defendant waives service of the Final Judgment and agrees that entry of
11 the Final Judgment by the Court and filing with the Clerk of the Court will constitute
12 notice to Defendant of its terms and conditions. Defendant further agrees to provide
13 counsel for the Commission, within thirty days after the Final Judgment is filed with
14 the Clerk of the Court, with an affidavit or declaration stating that Defendant has
15 received and read a copy of the Final Judgment.

16 10. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims
17 asserted against Defendant in this civil proceeding. Defendant acknowledges that no
18 promise or representation has been made by the Commission or any member, officer,
19 employee, agent, or representative of the Commission with regard to any criminal
20 liability that may have arisen or may arise from the facts underlying this action or
21 immunity from any such criminal liability. Defendant waives any claim of Double
22 Jeopardy based upon the settlement of this proceeding, including the imposition of
23 any remedy or civil penalty herein. Defendant further acknowledges that the Court's
24 entry of a permanent injunction may have collateral consequences under federal or
25 state law and the rules and regulations of self-regulatory organizations, licensing
26 boards, and other regulatory organizations. Such collateral consequences include, but
27 are not limited to, a statutory disqualification with respect to membership or
28 participation in, or association with a member of, a self-regulatory organization. This

1 statutory disqualification has consequences that are separate from any sanction
2 imposed in an administrative proceeding. In addition, in any disciplinary proceeding
3 before the Commission based on the entry of the injunction in this action, Defendant
4 understands that it shall not be permitted to contest the factual allegations of the
5 complaint in this action.

6 11. Defendant understands and agrees to comply with the terms of 17 C.F.R.
7 § 202.5(e), which provides in part that it is the Commission's policy "not to permit a
8 defendant or respondent to consent to a judgment or order that imposes a sanction
9 while denying the allegations in the complaint or order for proceedings," and "a
10 refusal to admit the allegations is equivalent to a denial, unless the defendant or
11 respondent states that [it] neither admits nor denies the allegations." As part of
12 Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i)
13 will not take any action or make or permit to be made any public statement denying,
14 directly or indirectly, any allegation in the complaint or creating the impression that
15 the complaint is without factual basis; (ii) will not make or permit to be made any
16 public statement to the effect that Defendant does not admit the allegations of the
17 complaint, or that this Consent contains no admission of the allegations, without also
18 stating that Defendant does not deny the allegations; and (iii) upon the filing of this
19 Consent, Defendant hereby withdraws any papers filed in this action to the extent that
20 they deny any allegation in the complaint. If Defendant breaches this agreement, the
21 Commission may petition the Court to vacate the Final Judgment and restore this
22 action to its active docket. Nothing in this paragraph affects Defendant's: (i)
23 testimonial obligations; or (ii) right to take legal or factual positions in litigation or
24 other legal proceedings in which the Commission is not a party.

25 12. Defendant hereby waives any rights under the Equal Access to Justice
26 Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other
27 provision of law to seek from the United States, or any agency, or any official of the
28 United States acting in his or her official capacity, directly or indirectly,

reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

13. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

14. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: June 26, 2018

CHARLES SCHWAB & CO., INC.

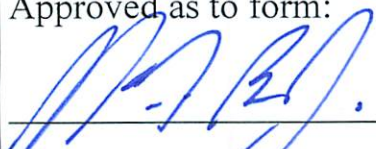
By: 

Mark P. Tellini
Senior Vice President
211 Main Street
San Francisco, CA 94105

On June 26, 2018, Mark P. Tellini, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Charles Schwab & Co., Inc. as its Senior Vice President.


Notary Public
Commission expires:

Approved as to form:



Walter F. Brown, Jr.
Orrick Herrington & Sutcliff
405 Howard Street
San Francisco, CA 94105
Attorneys for Defendant
Charles Schwab & Co., Inc.

